

Article 16.  
Dental Hygiene Act.

**§ 90-221. Definitions.**

(a) "Dental hygiene" as used in this Article shall mean the performance of the following functions: Complete oral prophylaxis, application of preventive agents to oral structures, exposure and processing of radiographs, administration of medicaments prescribed by a licensed dentist, preparation of diagnostic aids, and written records of oral conditions for interpretation by the dentist, together with such other and further functions as may be permitted by rules and regulations of the Board not inconsistent herewith.

(b) "Dental hygienist" as used in this Article, shall mean any person who is a graduate of a Board-accredited school of dental hygiene, who has been licensed by the Board, and who practices dental hygiene as prescribed by the Board.

(c) "License" shall mean a certificate issued to any applicant upon completion of requirements for admission to practice dental hygiene.

(d) "Renewal certificate" shall mean the annual certificate of renewal of license to continue practice of dental hygiene in the State of North Carolina.

(e) "Board" shall mean "The North Carolina State Board of Dental Examiners" created by Chapter 139, Public Laws of 1879, and Chapter 178, Public Laws of 1915 as continued in existence by G.S. 90-22.

(f) "Supervision" as used in this Article shall mean that acts are deemed to be under the supervision of a licensed dentist when performed in a locale where a licensed dentist is physically present during the performance of such acts, except those acts performed under direction and in compliance with G.S. 90-233(a) or G.S. 90-233(a1), and such acts are being performed pursuant to the dentist's order, control and approval. (1945, c. 639, s. 1; 1971, c. 756, s. 1; 1981, c. 824, s. 1; 2007-124, s. 1.)

**§ 90-222. Administration of Article.**

The Board is hereby vested with the authority and is charged with the duty of administering the provisions of this Article. (1945, c. 639, s. 2.)

**§ 90-223. Powers and duties of Board.**

(a) The Board is authorized and empowered to:

- (1) Conduct examinations for licensure,
- (2) Issue licenses and provisional licenses,
- (3) Issue annual renewal certificates,
- (4) Renew expired licenses, and
- (5) Contract with a regional or national testing agency to conduct clinical examinations. Prior to entering a contract with a regional or national testing agency, the Board shall evaluate the agency based on the following criteria:
  - a. The number of states that recognize the results of the testing agency's examination.
  - b. The cost to the applicant of the examination.
  - c. How long the testing agency has been conducting examinations.
  - d. Whether the examination includes procedures performed on human subjects as part of the assessment of clinical competencies.

(b) The Board shall have the authority to make or amend rules and regulations not inconsistent with this Article governing the practice of dental hygiene and the granting, revocation and suspension of licenses and provisional licenses of dental hygienists.

(1) Any rule adopted under this Article shall be distributed to all licensed dentists and all licensed dental hygienists within 30 days of final approval by the Board.

(2) The Board shall issue every two years a compilation or supplement of the Dental Hygiene Act and the Board rules and regulations, and, upon written request therefor, a directory of dental hygienists to each licensed dentist and dental hygienist.

(c) The Board shall keep on file in its office at all times a complete record of the names, addresses, license numbers and renewal certificate numbers of all persons entitled to practice dental hygiene in this State.

(d) The Board shall, in addition to any other requirements for Board approval of a school or program of dental hygiene for purposes of this Article, require that any school or program in North Carolina develop and implement a procedure for advanced placement of potentially qualified persons. This procedure shall be designed to encourage and allow credit for any person who has attained special capabilities in dental work through military service, on-the-job training or working experience, or other means not otherwise qualifying the person to be immediately eligible for licensure. The procedure shall include these elements: public announcement of the procedure, a method for persons who have special capabilities through training or experience to make application to the school or program for advanced placement, personal counseling on obtaining advanced placement, administration of specially prepared written and clinical examinations for all parts of the curriculum otherwise required for graduation, exemption from course requirements when results of the examinations so indicate, and appropriate modification of curriculum requirements, when necessary, to facilitate individual advancement in education programs. The procedure for advanced placement shall not be approved by the Board unless it is fairly designed to facilitate the substitution of military or civilian training and experience for regular curricula, taking into account that the special nature of military and certain civilian training and experience may be equivalent without necessarily being identical to the courses of the school or program.

(e) The Board shall have the authority to provide for programs for impaired dental hygienists as authorized in G.S. 90-48.3. (1945, c. 639, s. 3; 1971, c. 756, s. 2; 1973, c. 871, s. 2; 1979, 2nd Sess., c. 1195, s. 14; 1987, c. 827, s. 1; 1999-382, s. 2; 2000-189, s. 7; 2006-235, s. 1.)

#### **§ 90-224. Examination.**

(a) The applicant for licensure must be of good moral character, have graduated from an accredited high school or hold a high school equivalency certificate duly issued by a governmental agency or unit authorized to issue the same, and be a graduate of a program of dental hygiene in a school or college approved by the Board.

(b) The Board shall have the authority to establish in its rules and regulations:

(1) The form of application;

(2) The time and place of examination;

(3) The type of examination;

(4) The qualifications for passing the examination.

(b1) The Board also may grant a license to an applicant who is found to have passed an examination given by a Board-approved regional or national dental hygiene testing agency, provided that the Board deems the regional or national examination to be substantially equivalent to or an improvement upon the examination given by the Board, and the applicant meets the other qualifications set forth in this Article.

(c) The Department of Public Safety may provide a criminal record check to the Board for a person who has applied for a new or renewal license through the Board. The Board shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection. (1945, c. 639, s. 4; 1971, c. 756, s. 3; 2002-147, s. 10; 2006-235, s. 2; 2014-100, s. 17.1(o).)

#### **§ 90-224.1. Licensure by credentials.**

(a) The Board may issue a license by credentials to an applicant who has been licensed to practice dental hygiene in any state or territory of the United States if the applicant produces satisfactory evidence to the Board that the applicant has the required education, training, and qualifications; is in good standing with the licensing jurisdiction; has passed the National Board Dental Hygiene Examination administered by the Joint Commission on National Dental Examinations; has passed satisfactory examinations of proficiency in the knowledge and practice of dental hygiene as determined by the Board; and meets all other requirements of this section and rules adopted by the Board. The Board may, in its discretion, refuse to issue a license by credentials to an applicant who the Board determines is unfit to practice dental hygiene.

(b) The applicant for licensure shall be of good moral character, have graduated from an accredited high school or hold a high school equivalency certificate duly issued by a governmental agency or authorized unit, and have graduated from a dental hygiene program or school accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Board.

(c) The applicant must meet all of the following conditions:

- (1) Has been actively practicing dental hygiene, as defined in G.S. 90-221, under the supervision of a licensed dentist for a minimum of two years immediately preceding the date of application.

- (2) Has no history of disciplinary action or pending disciplinary action in the Armed Forces of the United States or in any state or territory in which the applicant is or has ever been licensed.
- (3) Has no felony convictions and has no other criminal convictions that would affect the applicant's ability to render competent dental hygiene care.
- (4) Has not failed a licensure examination administered by the North Carolina State Board of Dental Examiners.

(d) The applicant for licensure by credentials shall submit an application, the form of which shall be determined by the Board, pay the fee required by G.S. 90-232, successfully complete examinations in Jurisprudence and Sterilization and Infection Control, and meet other criteria or requirements established by the Board, which may include an examination or interview before the Board or its authorized agents.

(e) This section shall not be construed to include licensure by reciprocity, which is prohibited. (2002-37, s. 3; 2011-183, s. 65.)

**§ 90-225. License issue and display.**

- (a) The Board shall issue licenses to examinees who pass the Board's examination.
- (b) The Board shall determine:
  - (1) The method and time of notifying successful candidates,
  - (2) The time and form for issuing licenses, and
  - (3) The place license must be displayed. (1945, c. 639, s. 5; 1971, c. 756, s. 4.)

**§ 90-225.1. Continuing education courses required.**

All dental hygienists licensed under G.S. 90-225 shall be required to attend Board-approved courses of study in subjects relating to dental hygiene. The Board shall have authority to consider and approve courses, or providers of courses, to the end that those attending will gain (i) information on existing and new methods and procedures used by dental hygienists, (ii) information leading to increased safety and competence in their dealings with patients and supervising dentists, and (iii) information on other matters, as they develop, that are of continuing importance to the practice of dental hygiene as a part of the practice of dentistry. The Board shall determine the number of hours of study within a particular period and the nature of course work required. Failure to comply with continuing education requirements adopted under the authority of this section shall be grounds for the Board to decline to issue a renewal certificate under G.S. 90-227. (1993, c. 307, s. 3.)

**§ 90-226. Provisional license.**

(a) The North Carolina State Board of Dental Examiners shall, subject to its rules and regulations, issue a provisional license to practice dental hygiene to any person who is licensed to practice dental hygiene anywhere in the United States, or in any country, territory or other recognized jurisdiction, if the Board shall determine that said licensing jurisdiction imposed upon said person requirements for licensure no less exacting than those imposed by this State. A provisional licensee may engage in the practice of dental hygiene only in strict accordance with the terms, conditions and limitations of her license and with the rules and regulations of the Board pertaining to provisional license.

(b) A provisional license shall be valid until the date of the announcement of the results of the next succeeding Board examination of candidates for licensure to practice dental hygiene in this State, unless the same shall be earlier revoked or suspended by the Board.

(c) No person who has failed an examination conducted by the North Carolina State Board of Dental Examiners shall be eligible to receive a provisional license.

(d) Any person desiring to secure a provisional license shall make application therefor in the manner and form prescribed by the rules and regulations of the Board and shall pay the fee prescribed in G.S. 90-232.

(e) A provisional licensee shall be subject to those various disciplinary measures and penalties set forth in G.S. 90-229 upon a determination of the Board that said provisional licensee has violated any of the terms or provisions of this Article. (1971, c. 756, s. 5; 1975, c. 19, s. 5.)

#### **§ 90-227. Renewal certificates.**

(a) The Board shall issue annual renewal certificates to licensed dental hygienists.

(b) The Board shall have the authority to establish in its rules and regulations:

- (1) The form of application for renewal certificates;
- (2) The time the application must be submitted;
- (3) The type of certificate to be issued;
- (4) How the certificate must be displayed;
- (5) The penalty for late application;
- (6) The automatic loss of license if applications are not submitted. (1945, c. 639, s. 6; 1971, c. 756, s. 6.)

#### **§ 90-228. Renewal of license.**

The Board shall have the authority to renew the license of a dental hygienist who fails to obtain a renewal certificate for any year provided she

- (1) Makes application for a renewal of license and
- (2) Meets the qualifications established by the Board. (1945, c. 639, s. 7; 1971, c. 756, s. 7.)

#### **§ 90-229. Disciplinary measures.**

(a) The North Carolina State Board of Dental Examiners shall have the power and authority to (i) Refuse to issue a license to practice dental hygiene; (ii) Refuse to issue a certificate of renewal to practice dental hygiene; (iii) Revoke or suspend a license to practice dental hygiene; [and] (iv) Invoke such other disciplinary measures, censure or probative terms against a licensee as it deems proper; in any instance or instances in which the Board is satisfied that such applicant or licensee:

- (1) Has engaged in any act or acts of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license or the renewal thereof;
- (2) Has been convicted of any of the criminal provisions of this Article or has entered a plea of guilty or nolo contendere to any charge or charges arising therefrom;
- (3) Has been convicted of or entered a plea of guilty or nolo contendere to any felony charge or to any misdemeanor charge involving moral turpitude;
- (4) Is a chronic or persistent user of intoxicants, drugs or narcotics to the extent that the same impairs her ability to practice dental hygiene;

- (5) Is incompetent in the practice of dental hygiene;
- (6) Has engaged in any act or practice violative of any of the provisions of this Article or violative of any of the rules and regulations promulgated and adopted by the Board, or has aided, abetted or assisted any other person or entity in the violation of the same;
- (7) Has practiced any fraud, deceit or misrepresentation upon the public or upon any individual in an effort to acquire or retain any patient or patients;
- (8) Has made fraudulent or misleading statements pertaining to her skill, knowledge, or method of treatment or practice;
- (9) Has committed any fraudulent or misleading acts in the practice of dental hygiene;
- (10) Has, in the practice of dental hygiene, committed an act or acts constituting malpractice;
- (11) Has employed a person not licensed in this State to do or perform any act or service, or has aided, abetted or assisted any such unlicensed person to do or perform any act or service which cannot lawfully be done or performed by such person;
- (12) Has engaged in any unprofessional conduct as the same may be from time to time, defined by the rules and regulations of the Board;
- (13) Is mentally, emotionally, or physically unfit to practice dental hygiene or is afflicted with such a physical or mental disability as to be deemed dangerous to the health and welfare of patients. An adjudication of mental incompetency in a court of competent jurisdiction or a determination thereof by other lawful means shall be conclusive proof of unfitness to practice dental hygiene unless or until such person shall have been subsequently lawfully declared to be mentally competent.

(b) As used in this section the term "licensee" includes licensees and provisional licensees and the term "license" includes licenses and provisional licenses. (1945, c. 639, s. 8; 1971, c. 756, s. 8; 1997-456, s. 27.)

#### **§ 90-230. Certificate upon transfer to another state.**

Any dental hygienist duly licensed by the North Carolina State Board of Dental Examiners, desiring to move from North Carolina to another state, territory or foreign country, if a holder of a certificate of renewal of license from said Board, upon application to said Board and the payment to it of the fee in this Article provided, shall be issued a certificate showing her full name and address, the date of license originally issued to her, the date and number of her renewal of license, and whether any charges have been filed with the Board against her. The Board may provide forms for such certificate, requiring such additional information as it may determine proper. (1971, c. 756, s. 10.)

#### **§ 90-231. Opportunity for licensee or applicant to have hearing.**

(a) With the exception of applicants for reinstatement after revocation, every applicant for a license or provisional license to practice dental hygiene or licensee or provisional licensee to practice dental hygiene shall after notice have an opportunity to be heard before the North Carolina State Board of Dental Examiners shall take any action the effect of which would be:

- (1) To deny permission to take an examination for licensing for which application has been duly made; or
- (2) To deny a license after examination for any cause other than failure to pass an examination; or
- (3) To withhold the renewal of a license for any cause other than failure to pay a statutory renewal fee; or
- (4) To suspend a license; or
- (5) To revoke a license; or
- (6) To revoke or suspend a provisional license; or
- (7) To invoke any other disciplinary measures, censure or probative terms against a licensee or provisional licensee,

such proceedings to be conducted in accordance with the provisions of Chapter 150B of the General Statutes of North Carolina.

(b) In lieu of or as a part of such hearing and subsequent proceedings the Board is authorized and empowered to enter any consent order relative to the discipline, censure, or probation of a licensee, provisional licensee or an applicant for a license or provisional license, or relative to the revocation or suspension of a license or provisional license.

(c) Following the service of the notice of hearing as required by Chapter 150B of the General Statutes, the Board and the person upon whom such notice is served shall have the right to conduct adverse examinations, take depositions, and engage in such further discovery proceedings as are permitted by the laws of this State in civil matters. The Board is hereby authorized and empowered to issue such orders, commissions, notices, subpoenas, or other process as might be necessary or proper to effect the purposes of this subsection; provided, however, that no member of the Board shall be subject to examination hereunder. (1945, c. 639, s. 10; 1967, c. 489, s. 1; 1971, c. 756, s. 11; 1973, c. 1331, s. 3; 1987, c. 827, s. 1.)

#### **§ 90-232. Fees.**

(a) In order to provide the means of carrying out and enforcing the provisions of this Article and the duties devolving upon the North Carolina State Board of Dental Examiners, it is authorized to charge and collect fees established by its rules not exceeding the following:

- (1) Each applicant for examination ..... \$350.00
- (2) Each renewal certificate, which fee shall be annually fixed by the Board and not later than November 30 of each year it shall give written notice of the amount of the renewal fee to each dental hygienist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such dental hygienist ..... 250.00
- (3) Each restoration of license ..... 150.00
- (4) Each provisional license ..... 150.00
- (5) Each certificate of license to a resident dental hygienist desiring to change to another state or territory ..... 50.00
- (6) Annual fee to be paid upon license renewal to assist in funding programs for impaired dental hygienists ..... 80.00
- (7) Each license by credentials ..... 1,500.

(b) In all instances where the Board uses the services of a regional or national testing agency for preparation, administration, or grading of examinations, the Board may require

applicants to pay the actual cost of the testing agency in lieu of the fee authorized in subdivision (a)(1) of this section.

(c) In no event may the annual fee imposed on dental hygienists to fund the impaired dental hygienists program exceed the annual fee imposed on dentists to fund the impaired dentist program. All fees shall be payable in advance to the Board and shall be disposed of by the Board in the discharge of its duties under this Article. (1945, c. 639, s. 11; 1965, c. 163, s. 7; 1967, c. 489, s. 2; 1971, c. 756, s. 12; 1987, c. 555, s. 2; 1999-382, s. 3; 2002-37, s. 6; 2003-348, s. 2; 2006-235, s. 3.)

### **§ 90-233. Practice of dental hygiene.**

(a) A dental hygienist may practice only under the supervision of one or more licensed dentists. This subsection shall be deemed to be complied with in the case of dental hygienists employed by or under contract with a local health department or State government dental public health program and especially trained by the Dental Health Section of the Department of Health and Human Services as public health hygienists, while performing their duties for the persons officially served by the local health department or State government program under the direction of a duly licensed dentist employed by that program or by the Dental Health Section of the Department of Health and Human Services.

(a1) A dental hygienist who has three years of experience in clinical dental hygiene or a minimum of 2,000 hours performing primarily prophylaxis or periodontal debridement under the supervision of a licensed dentist, who completes annual CPR certification, who completes six hours each year of Board-approved continuing education in medical emergencies in addition to the requirements of G.S. 90-225.1, and who is designated by the employing dentist as being capable of performing clinical hygiene procedures without the direct supervision of the dentist, may perform one or more dental hygiene functions as described in G.S. 90-221(a) without a licensed dentist being physically present if all of the following conditions are met:

- (1) A licensed dentist directs in writing the hygienist to perform the dental hygiene functions.
- (2) The licensed dentist has personally conducted an evaluation of the patient which shall include a complete oral examination of the patient, a thorough analysis of the patient's health history, a diagnosis of the patient's condition, and a specific written plan for treatment.
- (3) The dental hygiene functions directed to be performed in accordance with this subsection shall be conducted within 120 days of the dentist's evaluation.
- (4) The services are performed in nursing homes; rest homes; long-term care facilities; rural and community clinics operated by Board-approved nonprofits; rural and community clinics operated by federal, State, county, or local governments; and any other facilities identified by the Office of Rural Health and approved by the Board as serving dental access shortage areas.

(a2) A dental hygienist shall not establish or operate a separate care facility that exclusively renders dental hygiene services.

(a3) A dental hygienist who has been disciplined by the Board may not practice outside the direct supervision of a dentist under G.S. 90-233(a1). A dentist who has been disciplined by the Board may not allow a hygienist to work outside of that dentist's direct supervision under G.S. 90-233(a1).



(a4) Each dentist who chooses to order dental hygiene services under G.S. 90-233(a1) shall report annually to the Board the number of patients who were treated outside the direct supervision of the dentist, the location in which the services were performed by the hygienist, and a description of any adverse circumstances which occurred during or after the treatment, if any. The dentist's report shall not identify hygienists or patients by name or any other identifier.

(a5) Clinical dental hygiene services shall be provided in compliance with both CDC and OSHA standards for infection control and patient treatment.

(b) A dentist in private practice may not employ more than two dental hygienists at one and the same time who are employed in clinical dental hygiene positions.

(c) Dental hygiene may be practiced only by the holder of a license or provisional license currently in effect and duly issued by the Board. The following acts, practices, functions or operations, however, shall not constitute the practice of dental hygiene within the meaning of this Article:

- (1) The teaching of dental hygiene in a school or college approved by the Board in a board-approved program by an individual licensed as a dental hygienist in any state in the United States.
- (2) Activity which would otherwise be considered the practice of dental hygiene performed by students enrolled in a school or college approved by the Board in a board-approved dental hygiene program under the direct supervision of a dental hygienist or a dentist duly licensed in North Carolina or qualified for the teaching of dentistry pursuant to the provisions of G.S. 90-29(c)(3), acting as an instructor.
- (3) Any act or acts performed by an assistant to a dentist licensed to practice in this State when said act or acts are authorized and permitted by and performed in accordance with rules and regulations promulgated by the Board.
- (4) Dental assisting and related functions as a part of their instructions by students enrolled in a course in dental assisting conducted in this State and approved by the Board, when such functions are performed under the supervision of a dentist acting as a teacher or instructor who is either duly licensed in North Carolina or qualified for the teaching of dentistry pursuant to the provisions of G.S. 90-29(c)(3). (1945, c. 639, s. 12; 1971, c. 756, s. 13; 1973, c. 476, s. 128; 1981, c. 824, ss. 2, 3; 1989, c. 727, s. 219(6a); 1997-443, s. 11A.23; 1999-237, s. 11.65; 2007-124, s. 2.)

#### **§ 90-233.1. Violation a misdemeanor.**

Any person who shall violate, or aid or abet another in violating, any of the provisions of this Article shall be guilty of a Class 1 misdemeanor. (1945, c. 639, s. 13; 1971, c. 756, s. 14; 1993, c. 539, s. 642; 1994, Ex. Sess., c. 24, s. 14(c).)